

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA :
 :
 v. : MAGISTRATE'S NO. 01-452-M
 :
 WILLIAM CLARK :

**GOVERNMENT'S MOTION TO DISMISS
THE COMPLAINT AND WARRANT**

The United States of America, through its attorneys, Patrick L. Meehan, United States Attorney for the Eastern District of Pennsylvania, and Jose R. Arteaga, Assistant United States Attorney, hereby moves pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure to dismiss the complaint and warrant, and in support thereof avers as follows.

1. On May 30, 2001, William Clark was charged by complaint and warrant with using a telephone willfully to make a threat to kill, injure and intimidate an individual and unlawfully to damage and destroy a building by means of an explosive, in violation of Title 18, United States Code, Section 844(e). The defendant was not taken into custody because his whereabouts were unknown.

2. Rule 48(a) of the Federal Rules of Criminal Procedure provides the government "may by leave of the court file a dismissal of a . . . complaint and the prosecution shall thereupon terminate." Such a dismissal is presumed to be without prejudice. *See United States v. Ortega Alvarez*, 506 F.2d 455, 458 (2d Cir.) (dismissal under Rule 48 "is without prejudice to the government's right to reindict for the same offense, unless the contrary is expressly stated"); United

States v. Davis, 487 F.2d 112 (5th Cir. 1973) (same); DeMarrias v. United States, 487 F.2d 19, 21 (8th Cir. 1973) (same); United States v. Chase, 372 F.2d 453, 463 (4th Cir. 1967).

3. The government's investigation revealed that there is insufficient credible evidence for a successful prosecution of this matter.

WHEREFORE, it is respectfully submitted that the ends of justice will be best served by a dismissal of the complaint.

Respectfully submitted,

PATRICK L. MEEHAN
United States Attorney

DAVID B. WEBB
Assistant United States Attorney
Chief, Violent Crime, Terrorism & Immigration
Fraud Unit

JOSE R. ARTEAGA
Assistant United States Attorney

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ORDER

AND NOW, this day of , 2005, upon consideration of the
government's motion to dismiss the complaint and warrant, and any response thereto, it is hereby
ORDERED that the complaint and warrant are dismissed without prejudice.

BY THE COURT:

M. FAITH ANGELL
United States Magistrate Judge